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## FISCAL IMPACT REPORT

SPONSOR Gardner ORIGINAL DATE 01/24/10  
LAST UPDATED \_\_\_\_\_ HJR 5  
SHORT TITLE Allow Healthcare Decisions, C.A. SB \_\_\_\_\_  
ANALYST Hanika-Ortiz

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$104.0			Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates SJR 2

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Office of the Attorney General (AGO)

Department of Health (DOH)

Health Policy Commission (HPC)

### SUMMARY

#### Synopsis of Bill

House Joint Resolution 5 proposes to amend Article 2 of the Constitution of the New Mexico by adopting a new section that would provide the people of the State the right to make decisions about their health care.

The language in the new section would prohibit new laws that restrict a person's freedom of choice of a private health care system or plan; interfere with a person's right to pay directly for lawful medical services; impose a penalty or fine on a person for choosing to obtain or decline health care coverage; or for participation in a particular health care system or plan.

The amendment to the Constitution would be submitted to the voters at the next general election or at a special election called for that purpose.

### FISCAL IMPLICATIONS

The Secretary of State estimates it costs \$104.0 to place an amendment on a general election ballot.

A special election could cost taxpayers upwards of \$100 thousand.

Current New Mexico law mandates coverage for minor children by either or both parents. The proposed legislation would prevent Child Support Enforcement Division (CSED) from complying with federal mandates to establish and enforce medical support on behalf of minor children.

Many insurance companies are regulated by the Federal government rather than the State in accordance with the Federal Employee Retirement Income Security Act. The AG noted that to the extent HJR 5 conflicts with any federal law, present or future, it would be preempted.

### **SIGNIFICANT ISSUES**

HJR 5 supports the concept that the people of New Mexico should be able to choose to be uninsured.

### **PERFORMANCE IMPLICATIONS**

There is ongoing debate as to whether Federal or State governments can require individuals to purchase health insurance as a condition for residency. Other states that have imposed health coverage mandates include provisions that allow individuals the right to choose.

### **DUPLICATION**

Duplicates SJR 2.

### **OTHER SUBSTANTIVE ISSUES**

DOH states that HJR 5 could limit the legislature's options for future health care coverage reform.

HPC reports that in 2008, 23.7% of New Mexican's were uninsured. The State's uninsured rate was above the national rate of 15.4%. New Mexico had the second highest uninsured rate in the nation.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The Constitution of New Mexico would not prohibit the enactment of laws mandating health insurance participation in health care systems or plans.

AHO/mt/mew